

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs In Connection Therewith in Rates.

A.04-09-019  
(Filed September 20, 2004)

**REPLY COMMENTS OF THE INDEPENDENT RECLAIMED  
WATER USERS GROUP ON THE PROPOSED DECISION**

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December 11, 2006

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Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, the Independent Reclaimed Water Users Group ("IRWUG")<sup>1</sup> respectfully submits these reply comments on the November 14, 2006, Proposed Decision ("PD") of Administrative Law Judge ("ALJ") Patrick on the motion for Interim Rate Relief of the California-American Water Company ("Cal-Am") in Phase I of this proceeding. In these reply comments, IRWUG responds to several issues raised by the Monterey Peninsula Water Management District ("MPWMD") in its comments on the PD and suggests revisions to the tariff submitted by California-American Water Company ("Cal-Am") with its opening comments to implement the Coastal Water Project ("CWP") Surcharges exemption adopted by the PD.

**1. Comments of the Monterey Peninsula Water Management District**

IRWUG appreciates MPWMD's pledge that it "will work with IRWUG and the Pebble Beach Company to modify the language in the Agreements for Sale of Recycled Water so that CWP surcharges are not part of the cost of reclaimed water."<sup>2</sup> MPWMD nonetheless opposes

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<sup>1</sup> IRWUG is an unincorporated association of the Monterey Peninsula Country Club ("Monterey Peninsula"), the Cypress Hills Country Club ("Cypress Hills"), and the NCGA Poppy Hills Golf Course ("Poppy Hills").

<sup>2</sup> Comments of the Monterey Peninsula Water Management District on the Proposed Decision ("MPWMD Comments") at 14.

the exemption from CWP Surcharges for the Del Monte Forest golf courses which the PD adopts based on the substantial contribution these golf courses have already made to reduce the use of potable water on the Monterey Peninsula.<sup>3</sup> MPWMD's opposition to the CWP Surcharge exemption belies pledge to modify the language in the Agreements. Moreover, its opposition appears to be based on three erroneous contentions.

First, MPWMD appears to believe the PD's exemption of the Del Monte Forest golf courses from the CWP Surcharges applies just to the IRWUG member golf courses.<sup>4</sup> In actual fact, the CWP Surcharges exemption adopted by the PD and implemented in the tariff proposed by Cal-Am, applies to all four of the Del Monte Forest golf courses, including the Pebble Beach Company. All of the Del Monte Forest golf courses have participated extensively in the establishment, construction and use of the Monterey Reclamation Project and all of them, through their purchase of reclaimed water from the Project, are contributing the revenue that is used to repay the bonds that were issued to finance the construction of the Project. In its opening comments on the PD, IRWUG offered language revising Finding of Fact 12 to clarify that the CWP Surcharges exemption authorized by the PD will apply to all four golf course owners.<sup>5</sup>

Second, MPWMD claims the record errs by implying that IRWUG built the Monterey Reclamation Project. On the contrary, both the PD and the record are clear that all four of the Del Monte Forest golf courses, including the three IRWUG member golf courses and the Pebble Beach Company, and MPWMD have made substantial contributions to the Monterey Reclamation Project. The PD provides that all of the Del Monte Forest golf courses, which

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<sup>3</sup> MPWMD Comments at 14 ("MPWMD does not support a special tariff for IRWUG's use of potable water for irrigation.").

<sup>4</sup> MPWMD Comments at 14.

<sup>5</sup> Comments of IRWUG on the Proposed Decision, at 5 and Appendix.

include the Pebble Beach Company, should be exempted from the CWP Surcharges:

Exempting the Del Monte Forest golf courses from surcharges for golf course irrigation needs will advance the important public policy of encouraging large water users to replace their use of potable water with reclaimed water and further reduce draws of scarce potable water and the accompanying negative environmental impacts.<sup>6</sup>

In addition, the uncontroverted testimony of IRWUG, on which the PD's findings and conclusions with respect to the CWP Surcharges exemption is based, describes the significant initiatives undertaken by MPWMD, the Pebble Beach Company, and the IRWUG member companies to build the Monterey Reclamation Project and reduce potable water usage on the Monterey Peninsula:

The IRWUG members, together with the Pebble Beach Company, are the majority participants by contract in the CAWD/MPWMD Water Reclamation Project.<sup>7</sup>

In order to address the limitations of the Original Project and further reduce the use of potable water for irrigation purposes on the Monterey Peninsula, IRWUG's members joined with the MPWMD, the CAWD, the Pebble Beach Community Services District, the Pebble Beach Company and the Stevenson School to finance an expansion of the Original Project (the "Project Expansion").<sup>8</sup>

The Original Project was financed by bonds issued by MPWMD. The principal and interest on these bonds is being paid from recycled water sales revenues paid by IRWUG members and other recycled water users, with payments guaranteed by Pebble Beach Company in the event of a shortfall. The capital costs of the Project Expansion are being paid for by Pebble Beach Company and recovered through the sale of surplus potable water rights Pebble Beach Company received as a result of its investment in the Project Expansion.<sup>9</sup>

The record of this proceeding is clear that while the IRWUG member golf courses have played an important role in the Monterey Reclamation Project, credit for the Project is shared

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<sup>6</sup> PD at 34, Conclusion of Law 15.

<sup>7</sup> Exh. 17-A (IRWUG/Bowhay), at 2.

<sup>8</sup> Exh. 17-A (IRWUG/Bowhay), at 6.

<sup>9</sup> Exh. 17-A (IRWUG/Bowhay), at 10.

among a number of companies, agencies, and organizations, including MPWMD and the Pebble Beach Company. The record fully supports the findings and conclusions made by the PD on this issue.

Finally, MPWMD argues, “Every water user subject to SWRCB Order 95-10 has contributed to the community effort to reduce water demand from the Carmel River.”<sup>10</sup> The record in this proceeding shows, to the contrary, that not all Cal-Am customers and customer classes have contributed to reducing demand for Carmel River Water, while the Del Monte Forest golf courses have contributed a substantial reduction in demand for Carmel River Water through their participation in the Monterey Reclamation Project.<sup>11</sup> In addition, that contribution by the Del Monte Forest golf courses has been made, and will continue to be made, at no cost to any of Cal-Am’s other customers.<sup>12</sup> The contribution made by the Del Monte Forest golf courses to Cal-Am’s efforts to comply with SWRCB Order 95-10, and the lack of benefit they will receive from the Coastal Water Project, fully justify exempting them from the CWP Surcharges, particularly since Cal-Am’s proposed tariff implementing the CWP Surcharges exemption subjects Del Monte Forest golf courses to penalties in the event they rely on potable water for their golf course irrigation needs and thereby protects Cal-Am’s other customers against cross-subsidies.

The CWP Surcharges exemption adopted by the PD, and the PD’s findings of fact and conclusions of law with respect to the exemption, are fully supported by the record in this proceeding.

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<sup>10</sup> MPWMD Comments at 14.

<sup>11</sup> Exh. 17-A (IRWUG/Bowhay), at 9.

<sup>12</sup> Exh. 17-A (IRWUG/Bowhay), at 4.

## **2. Modifications to the Tariffs Implementing the CWP Surcharges Exemption**

With its comments on the PD, Cal-Am submitted Tariff Schedule No MO-1G, “Measured Golf Irrigation Service, to implement the CWP Surcharges exemption.<sup>13</sup> IRWUG appreciates the work Cal-Am has done to implement the CWP Surcharges exemption in its proposed tariff.

IRWUG proposes modifications to just two of the Special Conditions in proposed tariff Schedule No. MO-1G and Schedule No. MO-1G Emergency Rate Tariff. Those modifications are shown in the Appendix to these reply comments.

The modifications IRWUG proposes to Special Condition 12 clarify that the Special Condition applies to the golf course participants in the Monterey Reclamation Project and that the penalty will apply to volumes of potable water provided to the golf courses for irrigation in excess of 15 acre feet.

The modification to Special Condition 13 reflected in the Appendix would have the CWP Surcharges exemption take effect at the same time the CWP Surcharges become effective. This modification implements the proposal made by IRWUG in its opening comments on the PD.<sup>14</sup>

Respectfully submitted,

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<sup>13</sup> California-American Water Company’s Comments on the Proposed Decision for Interim Rate Relief, Exhibit 2. Cal-Am also proposed an “Emergency Rate Tariff” which appears to be identical.

<sup>14</sup> Comments of IRWUG on the Proposed Decision, at 5-6.

## APPENDIX:

### **Proposed Modifications to the Draft Tariff Language Submitted by California-American Water Company in Schedule No. MO-1G and Schedule No. MO-1G Emergency Rate Tariff**

#### Special Condition 12:

Penalty: If the delivery of potable water by California American Water to all of the Golf Course Reclamation Project Participants for irrigation purposes exceeds fifteen (15) acre feet in any year, the Golf Course Reclamation Project Participants will be required to pay a penalty in addition to the standard rate for the delivery of potable water for irrigation purposes under the tariff for volumes above fifteen (15) acre feet in that year. Such penalty will be fifteen (15) percent of California American Water's standard rate for irrigation purposes.

#### Special Condition 13 – Last Paragraph:

Participants in the Monterey Reclamation Project will be exempt from Surcharge #1 and Surcharge #2 for the use of potable water for golf course irrigation needs after ~~the Monterey Reclamation Project is placed in service. Any use of potable water prior to that time for irrigation purposes will be subject to the Surcharge #1 and Surcharge #2~~ Surcharge #1 becomes effective and will be subject to Special Condition 12.

**CERTIFICATE OF SERVICE**

I, Judy Pau, certify:

I am employed in the City and County of San Francisco, California, am over eighteen years of age and am not a party to the within entitled cause. My business address is 505 Montgomery Street, Suite 800, San Francisco, California 94111-6533.

On December 11, 2006, I caused the following to be served:

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via electronic mail to all parties on the service list A.04-09-019 who have provided the Commission with an electronic mail address and by First class mail on the parties listed as "Appearance" and "State Service" on the attached service list who have not provided an electronic mail address.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on the date above at San Francisco, California.

/s/ Judy Pau

Judy Pau



# CALIFORNIA PUBLIC UTILITIES COMMISSION

## Service Lists

**Proceeding: A0409019 - CALIFORNIA-AMERICAN**  
**Filer: CALIFORNIA-AMERICAN WATER COMPANY**  
**List Name: LIST**  
**Last changed: December 8, 2006**

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